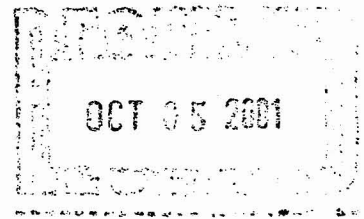




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10
1200 Sixth Avenue
Seattle, WA 98101

October 4, 2001



Reply To
Attn Of: ORC-158

David M. Heineck, Esq.
Summit Law Group
1505 Westlake Avenue North
Suite 300
Seattle, Washington 98109

Re: Amendment of U.S. v. FMC Corporation Consent Decree
No. CIV 98-0406-E-BLW (D. Idaho)

Dear Mr. Heineck:

Enclosed is a copy of the signed amendment to the above referenced Consent Decree. The amendment eliminates the requirement to remove sediment from Pond 18 and treat it in the LDR Treatment System within five years of the start of operation of the LDR Treatment System. FMC and Astaris must now close Pond 18 in accordance with Attachment A to the Consent Decree as modified by this amendment.

The amendment is effective as of October 4, 2001, the date the amendment was signed by EPA following signature by FMC. We appreciate your assistance and cooperation in this matter.

Sincerely,

Andrew Boyd
Associate Regional Counsel

Enclosure

cc (w/encl):
Blaine Edmo, Chairman, Fort Hall Business Council
Jeanette Wolfley, Special Counsel, Shoshone-Bannock Tribes
Susan Hanson, Shoshone-Bannock Tribes
Deborah Reyher, U.S. Department of Justice
Gil Haselberger, EPA Region 10

Amendment to Consent Decree

U.S. v. FMC Corporation, No. CIV 98-C406-E-BLW (D. Idaho)

As provided under Section XXIV of the Consent Decree entered on July 13, 1999 in the above action and based upon the agreement of the U.S. Environmental Protection Agency and FMC Corporation, Attachment A to the Consent Decree is hereby amended as follows:

1. The requirements of Attachment A Paragraph 21 are deleted.
2. The following new Paragraphs 9.a.- d. are added to Attachment A, Section I, entitled "Closure of Specified Regulated Units:"

9.a. On or before August 31, 2001, FMC shall revise and submit for EPA approval its closure plan for Pond 18. The Pond 18 closure plan submitted by FMC shall comply with the closure performance standards specified at 40 C.F.R. §265.228, all other applicable RCRA requirements, and the requirements specified herein. FMC shall include in the plan a schedule for completing closure. If FMC proposes to exceed the time for closure specified at 40 C.F.R.

§265:113, FMC shall include in the plan a detailed justification for why closure will, of necessity, take longer.

9.b. The Pond 18 closure plan submitted by FMC for the initial fill phase of closure of Cell A shall be consistent with the elements and design criteria set forth in the EPA-approved Phase 1 initial closure at Pond 16S. In addition, the plan's initial fill phase shall include installation of temporary gas monitoring and extraction piping as a contingency for collection and treatment of phosphine and other gases that may accumulate under the temporary cover. FMC shall complete the placement of the initial fill and temporary cover on Pond 18 Cell A during the first construction season following the year in which EPA approves, by December 15, this initial component of the closure plan.

9.c. The Pond 18 closure plan submitted by FMC with respect to the final cap for Cell A shall be consistent with the cap design, performance criteria and level of detail set forth in the EPA approved closure plan for Pond 8S. Closure of Cell A shall be completed on the schedule prescribed in the EPA approved closure plan.

9.d. The Pond 18 closure plan submitted by FMC shall provide for removal of water, waste residue and sediments from Cell B. The plan shall also provide for the removal or decontamination of contaminated containment system components, subsoils, structures

and equipment, in accordance with 40 C.F.R. §265.228(a)(1). FMC shall withdraw water from the cell using decant pumps and shall wash the tertiary liner as needed during the water draw down. After the decant pumps have withdrawn the water to the maximum extent practicable FMC shall remove the bird netting and FTIR system from Cell B. FMC then shall remove all sediments from the cell and as necessary treat those sediments either at the LDR Waste Treatment System or at its option at an off-site facility, and shall dispose of those sediments off-site. This treatment and disposal shall comply with all applicable RCRA requirements. Following removal of any sediments FMC shall remove the liner system and sample the underlying layer(s). FMC shall dispose of all the material removed from the cell in accordance with RCRA requirements. All closure activities, including those specified above, shall be described in detail in the closure plan submitted by FMC and shall be conducted in accordance with the EPA approved closure plan. Closure at Cell B shall be completed on the schedule prescribed in the EPA approved closure plan.

The persons listed below have authority to execute this agreement and hereby agree to this amendment respectively on behalf of FMC Corporation and the U.S. Environmental Protection Agency. This amendment shall be effective as of the date that both parties have signed this agreement as shown below.

Robert J. Field

Robert J. Field
Division Manager
Phosphorus Equity Division
FMC Corporation
Philadelphia, Pennsylvania

OCTOBER 2, 2001
Date

Randall F Smith

10/4/01
Date

For Ronald Kreizenbeck
Acting Regional Administrator

U.S. Environmental Protection Agency
Region 10
Seattle, Washington